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19 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

20 ANIBAL RODRIGUEZ, SAL CATALDO,  
 21 JULIAN SANTIAGO, and SUSAN LYNN  
 22 HARVEY individually and on behalf of all  
 23 other similarly situated,

24 Plaintiffs,

v.

25 GOOGLE LLC,

26 Defendant.

Case No.: 3:20-cv-04688-RS

27 **DECLARATION OF MARK MAO IN  
 28 SUPPORT OF PLAINTIFFS'  
 29 OPPOSITION TO GOOGLE'S MOTION  
 30 TO STRIKE DAMAGES SUPPLEMENT**

Judge: Hon. Richard Seeborg  
 Courtroom 3 – 17th Floor  
 Date: February 13, 2025  
 Time: 1:30 P.M.

## DECLARATION OF MARK MAO

I, Mark Mao, declare as follows.

1. I am a partner with the law firm of Boies Schiller Flexner LLP (“BSF”), counsel for Plaintiffs in this matter. I am an attorney at law duly licensed to practice before all courts of the State of California. I have personal knowledge of the matters set forth herein and am competent to testify.

2. I submit this Declaration in support of Plaintiffs' opposition to Google's motion to strike Plaintiffs' supplemental damages disclosures.

3. During discovery, Google never raised concerns or objections with the adequacy of Plaintiffs' initial Rule 26(a)(1) disclosures or their amended Rule 26(a)(1) disclosures.

4. Google also never raised concerns or objections with the adequacy of Plaintiffs' damages disclosure in their second amended Rule 26(a)(1) disclosures, served on October 3, 2023.

5. In the late Spring or early Summer of 2022, James Lee and I met and conferred with Google’s counsel, Eduardo Santacana, by telephone, to discuss Google’s position on Plaintiffs’ request for production of a sample of the app activity data Google collected from class members.

6. During that meet-and-confer, Mr. Santacana explained that Google refused to produce any sample of app activity data collected from absent class members during the fact discovery period because a class had not yet been certified.

7. Mr. Santacana promised, however, that Google would produce app activity data collected from a sample of absent class members if and when the Court were to certify any classes in this matter.

8. Plaintiffs and Google have held one mediation session, which occurred in August 2024.

9. Attached hereto as **Exhibit 1** is a true and correct copy of Plaintiff initial Rule 26(a)(1) disclosures, which were served on October 7, 2020.

1           10. Attached hereto as **Exhibit 2** is a true and correct copy of Plaintiffs' first amended  
2 Rule 26(a)(1) disclosures, dated and served on October 31, 2022.

3           11. Attached hereto as **Exhibit 3** is a true and correct copy of Plaintiffs' second  
4 amended Rule 26(a)(1) disclosures, dated and served on October 3, 2023.

5           12. Attached hereto as **Exhibit 4** is a true and correct copy of a December 3, 2020 letter  
6 that Plaintiffs' counsel, Beko Reblitz-Richardson, sent to Google's counsel regarding requests for  
7 production and preservation of documents.

8           13. Attached hereto as **Exhibit 5** is a true and correct copy of Plaintiffs' fifth set of  
9 requests for production of documents, dated and served on June 14, 2021.

10       14. Attached hereto as **Exhibit 6** is a true and correct copy of Google's responses and  
11 objections to Plaintiffs' fifth set of requests for production of documents, dated and served on July  
12 21, 2021.

13       15. Attached hereto as **Exhibit 7** is a true and correct copy of Google's responses and  
14 objections to Plaintiffs' third set of requests for production of documents, dated and served on  
15 March 17, 2021.

16        16. Attached hereto as **Exhibit 8** is a true and correct copy of a February 2, 2022 email  
17 sent by Google’s counsel, Eduardo Santacana, to Plaintiffs’ counsel regarding Plaintiffs’ request  
18 for production of a sample of data.

19       17. Attached hereto as **Exhibit 9** is a true and correct copy of Plaintiffs' third amended  
20 Rule 26(a)(1) disclosures, dated and served on September 16, 2024.

21       18. Attached hereto as **Exhibit 10** is a true and correct copy of September 16, 2024  
22 letter that I sent to Google's counsel regarding Google's supplemental damages productions and  
23 Plaintiffs' outstanding request for production of a sample of data.

24 19. Attached hereto as **Exhibit 11** is a true and correct copy of the Supplemental Expert  
25 Report of Michael J. Lasinski, dated and served on January 3, 2025.

1           20. Attached hereto as **Exhibit 12** is a true and correct copy of the transcript of the  
2 parties' July 25, 2024 argument on summary judgment before the Court.

3           21. Attached hereto as **Exhibit 13** is a true and correct copy of a January 15, 2025 email  
4 sent by Plaintiffs' counsel, Ryan Sila, to Google's counsel regarding Google's stated need for  
5 additional discovery.

6           22. Attached hereto as **Exhibit 14** is a true and correct copy of a December 27, 2024  
7 email sent by Google's counsel, Argemira Flórez, to Plaintiffs' counsel regarding its production  
8 of additional financial data.

9 I declare under penalty of perjury under the laws of the United States of America that the  
10 foregoing is true and correct. Executed this 16th day of January 2025, at San Francisco, California.

*/s/ Mark C. Mao*